

Serial No.: 10/684,277
132 Affidavit Dated 02/09/2005
Reply to Office Action of 08/09/2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Herndon, George W.	)	Art Unit:	3671
		)		
Serial No.:	10/684,277	)	Examiner:	Pezzuto, Robert Eric
		)		
Filed:	10/11/2003	)		
		)	Date:	February 9, 2005
Title:	Hand-operated Gatherer	)		
		)		
		/		

RULE 132 DECLARATION

I, George W. Herndon, do hereby declare that:

1. I am George W. Herndon, Applicant.
2. COMMERCIAL SUCCESS

Applicant has experienced commercial success with respect to the claimed invention in application no. 10/684,277. In particular, Applicant licensed the claimed hand-operated gatherer to The Ray Griffith Co.. Pursuant to the license agreement, The Ray Griffith Co. has recently offered the claimed gatherer along side its existing product for sale. The applicant's claimed invention has demonstrated sales even when offered at more than double the wholesale cost of an unimproved pecan gatherer. Records of initial sales from September and October and a summary thereof are provided in Exhibit A. Please note that in several cases, sales of the applicant's improved gatherer exceeded sales of the original gatherer to particular retailers, despite no prior history by retailer's with the applicant's device. The sale of 92 devices from 9/1/2004 through 10/12/2004 occurred during a period in which pecan crop yields have been significantly off the past year. Also, the licensee has slowed manufacture and distribution due to pending unrelated corporate litigation. Therefore, applicant has also tendered as part of "Exhibit A" a letter received from The Ray Griffin Co. projecting future sales under normal circumstances.

3. LONG-FELT NEED

The letter from The Ray Griffin Co. also demonstrates a long-felt need for improved means of releasing pecans from a gatherer basket. Such improvements offer a huge opportunity for success to The Ray Griffin Co.. These are the types of improvements The Ray Griffin Co.'s has sought

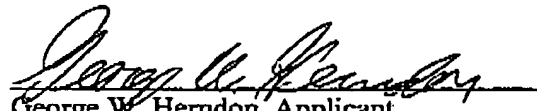
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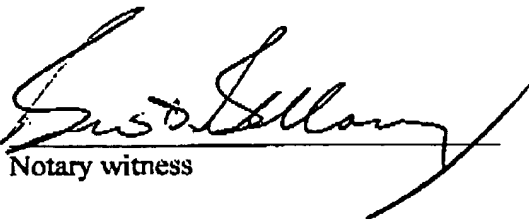
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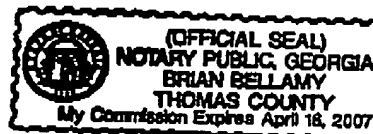
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throughout its 30 years in the business of manufacturing pecan gathering devices. The inventor's particular improvement is considered very significant in terms of potential effect on market share and sales for The Ray Griffin Co. as seen from the October 14, 2004 letter in Exhibit A.

I further declare under penalty of perjury pursuant to the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed by me on February 9, 2005 at Thomasville, Georgia.


George W. Herndon, Applicant


Notary witness



Attachment: Exhibit A (11 pages)